

STATE OF VERMONT
GREEN MOUNTAIN CARE BOARD

In re: BCBSVT 3Q 2015)	GMCB 03-15-rr
Large Group Rating Program Filing)	
)	
In re: TVHP, LLC 3Q 2015)	GMCB 04-15-rr
Large Group Rating Program Filing)	

RESPONSE TO MOTION FOR RECONSIDERATION

The Office of the Health Care Advocate (HCA) respectfully submits the following response to Blue Cross Blue Shield of Vermont and The Vermont Health Plan, LLC’s Motion for Reconsideration in the above captioned cases. The HCA asks the GMCB to uphold its decision in these cases.

The Green Mountain Care Board alone holds the power and responsibility to approve, modify, or disapprove health insurance rates in Vermont. 8 V.S.A. §4062(a)(1). The Vermont Legislature specifically gave the Green Mountain Care Board (the GMCB) the power and responsibility to determine whether a rate protects insurer solvency. 8 V.S.A. §4062(a)(3).

The GMCB must make the final determination of the insurers’ rates by weighing multiple factors. They are under no obligation to follow the recommendation of the Department of Financial Regulations (DFR), only to “consider” it. 8 V.S.A. §4062(a)(3). DFR is in the position to opine to the GMCB on the impact of the proposed rate on an insurer’s solvency and reserves. DFR does not have the power to decide insurer solvency in rate review cases before the GMCB, nor does its analysis consider the full spectrum of issues that the GMCB must consider: “whether

the rate is affordable, promotes quality care, promotes access to health care, ...and is not unjust, unfair, inequitable, misleading, or contrary to the laws of this State.” 8 V.S.A. §4062(a)(3).

Therefore, if the GMCB was to strictly follow DFR’s opinion, its decision would not encompass these requirements.

Further, the GMCB has reason to questions DFR’s conservative analyses. DFR has not recommended a change to any insurer’s proposed rates in any of the rate review cases since January 1, 2014, when the current rate review process came into effect. DFR Solvency Opinions in 2014 & 2015 rate review cases.

Moreover, there is no evidence that the GMCB’s pattern of lowering BCBSVT’s and TVHP’s CTR has threatened insurer surplus. From the time our current rate review system began in January 2014, the GMCB has regularly reduced insurer rates from the original rate submissions, including reducing contributions to surplus. GMCB 2014 & 2015 Rate Review Decisions. BCBSVT’s and TVHP’s 2014 annual statements show that both of their risk-based capital (RBC) levels¹ are significantly higher as of the end of 2014 than they have been in the last three years. BCBSVT 2014 Annual Statement, p. 29, lines 14 and 15; TVHP 2014 Annual Statement, p. 29, lines 14 and 15. In fact, BCBSVT’s current RBC level is near the top of the company’s target RBC range, and TVHP’s current RBC level exceeds the top of BCBSVT’s target RBC range. GMCB 18-14rr Hearing Transcript, p. 31, lines 12-15; BCBSVT 2014 Annual Statement, p. 29; TVHP 2014 Annual Statement, p. 29.

Health insurers carry the burden to justify their requested rates. GMCB Rule 2.104(c). Both companies have stated that they need additional contributions to reserves to hedge against

¹ As calculated by the ratio of each company’s Total Adjusted Capital to its Authorized control level risk-based capital.

unforeseen costs. However, neither has demonstrated that its risk level is so high that its current healthy surplus is inadequate. We ask the Board to let the decision stand.

Dated at Montpelier, Vermont this 7th day of May, 2015.

s/ Kaili Kuiper _____
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CERTIFICATE OF SERVICE

I, Kaili Kuiper, hereby certify that I have served the above Notice of Appearance on Michael N. Donofrio, General Counsel to the Green Mountain Care Board, Judith Henkin, Health Policy Director of the Green Mountain Care Board, and Jacqueline Hughes, representative of Blue Cross Blue Shield of Vermont, by electronic mail, return receipt requested, this 7th day of May, 2015.

s/ Kaili Kuiper _____
Kaili Kuiper
Staff Attorney
Office of the Health Care Advocate